

National Archives and Records Administration

§ 1235.32

(3) Describe the current business for which the records are required;

(4) Estimate the length of time the records will be needed (if no date is provided by the agency, approved certification requests will be effective for a maximum of five years);

(5) Explain why agency needs cannot be met by NARA reference services or copies of records deposited in the National Archives of the United States; and

(6) If records are retained to enable routine public reference by the agency rather than NARA, cite the statutory authority authorizing this agency activity.

§ 1235.16 How will NARA respond to an agency's request to retain records?

(a) *Approval.* NARA will provide written approval of the request to retain the records for the specified period within 30 days of receipt of the request.

(b) *Disapproval.* NARA will provide written disapproval of an agency's request within 30 days. Requests will be denied if the agency is retaining the records primarily to:

(1) Provide access services to persons outside the agency that can be provided by NARA, or

(2) Function as an agency archives, unless specifically authorized by statute or by NARA.

§ 1235.18 How do agencies transfer records to the National Archives of the United States?

Agencies transfer records by submitting a signed SF 258, Agreement to Transfer Records to the National Archives of the United States. Each SF 258 must correlate to a specific records series or other aggregation of records, as identified in an item on the SF 115 or cited on the SF 258.

§ 1235.20 How do agencies indicate that transferred records contain information that is restricted from public access?

When completing an SF 258, agencies must indicate restrictions on the use and examination of records and attach a written justification. The justification must cite the statute or Freedom of Information Act (FOIA) exemption

(5 U.S.C. 552(b) as amended), that authorizes the restrictions.

§ 1235.22 When does legal custody of records transfer to NARA?

Legal custody of records passes from the agency to NARA when the appropriate NARA official signs the SF 258 acknowledging receipt of the records.

Subpart B—Administration of Transferred Records

§ 1235.30 How may records in the National Archives of the United States be used?

(a) NARA will enforce restrictions that are consistent with FOIA (5 U.S.C. 552(b) as amended) for both official use of the records by Federal agencies and research by the public.

(b) NARA regulations in Subchapter C of this chapter apply to Federal agency personnel using transferred records for official Government purposes, and to the public at large.

§ 1235.32 How does NARA handle restrictions on transferred records?

(a) *For records less than 30 years old.* Unless required by law, NARA will remove or relax restrictions on transferred records less than 30 years old only with the written concurrence of the transferring agency or, if applicable, its successor agency. If the transferring agency no longer exists, and there is no successor, the Archivist may relax, remove, or impose restrictions to serve the public interest.

(b) *For records more than 30 years old.*

(1) After records are more than 30 years old, most statutory and other restrictions on transferred records expire. NARA, however, after consulting with the transferring agency, may keep the restrictions in force for a longer period.

(2) See part 1256 of this chapter for restrictions on specific categories of records, including national security classified information and information that would invade the privacy of an individual that NARA restricts beyond 30 years.